IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Contempt Petition No. 196 of 2004

Damodar Joshi, S/o Late Sri Deviodatt, Joshi, R/o Village Tahapla, Tok Bahani, Joshi Khola, Patti, Mangoli, Tehsil and District Nainital.

....Petitioner

Vs

Naveen Chandra S/o Sri Nand Ballabh Joshi, R/o Village Thapla, Tok Bahani, Joshi Khola, Patti Mangoli, Tehsil and District Nainital.

.....Respondent

Sri Sharad Sharma, learned counsel for the petitioner.
Sri Alok Mehra, Advocate holding brief of Sri Manoj Tiwari, learned counsel for the respondent.

Dated: - 13-12-2007

Hon'ble B.S. Verma, J.

Heard.

By means of this contempt petition, learned counsel for the petitioner has prayed to punish the respondents for flouting the order dated 24-8-1990 passed by the Allahabad High Court in Appeal No.1002 of 2001 Under Order 1 (G) read with Order 41 Rule 23 of the C.P.C. whereby the operation of the impugned order was stayed in F.A.F.O. No. 7 of 1990 Damodar Vs. Sri Navin Chandra and others.

The impugned order passed in Civil Appeal No.72 of 1989, the judgment and decree passed by the learned Munsif has been set aside and a direction was given to the learned Munsif to return the plaint to the plaintiff-respondent.

By the Allahabad High Court, the operation of the impugned order was stayed in F.A.F.O No.7 of 1990 Damodar Vs. Sri Navin Chandra and others and no direction was given to the

Appellant/respondent for compliance, only direction was given to the learned Munsif to returned the plaint to the respondent.

In view of the above facts, the respondent has not committed any disobedience of the High Court order. The Contempt petition is devoid of merit and is hereby dismissed. Notices issue against the respondents are hereby discharged.

However, if the petitioner feels, there is any disobedience of the lower Court order, he may approach to the trial court, if so advice.

All application stands disposed of accordingly.

(B.S. Verma, J.)

M.K.